



REMARKS

The Office Action dated December 23, 2003 has been received and carefully studied.

The Examiner rejects claims 1-2 and 6-10 under 35 U.S.C. §102(b) as being anticipated by Swan, Jr., U.S. Patent No. 4,229,546, and rejects claim 11 under 35 U.S.C. §103(a) as being unpatentable over Swan, Jr.. The Examiner states that Swan, Jr. discloses padding compositions comprising petroleum based oil, wax and microspheres. The Examiner considers the was of Swan, Jr. to be a rheology modifier, and considers the Swan, Jr. microspheres to inherently possess the uniform wall thickness and specific gravity recited in your claims.

By the accompanying amendment, the limitations of claim 3 have been incorporated into claim 1. Claim 3 has been cancelled. Claim 1 now recites that the rheology modifier is selected from the group consisting of poly-1-butene and polyisobutylene. This is nowhere disclosed or suggested by Swan, Jr.

The Examiner also rejects claim 3 for double patenting, as being obvious over claims 1-6 of U.S. patent 6,583,199.

The rejection is respectfully traversed.

It is noted that since the '199 patent has a filing date later than the instant application. Since the instant claims could not have been presented in the earlier application, and the delays in the instant application that caused the patent to issue earlier were administrative delays caused by the PTO, two-way obviousness must be established for a proper double patenting rejection (MPEP §804II.B.(b)). In this regard, the claims of the '199 patent all require a mono- or di-carboxylic acid, whereas the instant claims do not. The claims of the '199 patent are in no way an obvious variation of the claims in the application, as nowhere is this acid disclosed or suggested in the instant application. Moreover, the filing of a terminal disclaimer in this case would be ineffective, as the patent term in this case

(measured from the filing date of this application) is already shorter than the patent term of the '199 patent.

The Examiner's indication of the allowability of claims 4-5 is noted with appreciation.

The accompanying amendment to the specification is being made to correct errors in the various dates of the cited patents.

Reconsideration and allowance are respectfully requested in view of the foregoing.

Respectfully submitted,


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